



U.S. Department of Justice

United States Attorney
Southern District of New York

The Jacob K. Javits Federal Building
26 Federal Plaza, 38th Floor
New York, New York 10278

May 14, 2024

VIA ECF & EMAIL

The Honorable Paul A. Engelmayer
United States District Judge
Southern District of New York
40 Foley Square, Courtroom 1305
New York, NY 10007

**Re: *United States v. Luis Monsanto-Germosen*,
17 Cr. 662 (PAE)**

Dear Judge Engelmayer:

As requested, the Government writes regarding whether supervised release is tolled during periods in which the defendant is in custody of (1) state, federal or local authorities on a new criminal offense, or (2) immigration or other administrative authorities.

Pursuant to 18 U.S.C. § 3624(e), a supervisee's period of supervised release is tolled during any period of at least 30 days in which the person is imprisoned in connection with a conviction for a federal, state, or local crime. Here, Mr. Monsanto-Germosen made an initial appearance on a federal complaint in the Western District of New York on January 12, 2024, based on allegations of his destruction of federal property while in ICE custody on or about January 4, 2024. (Case No. 1:24mj1019 (W.D.N.Y.) at Dkt. Nos. 1 (complaint) and 3 (minute entry for initial appearance)). He was detained following his initial appearance on that charge and, following a guilty plea to a misdemeanor information, was ultimately sentenced to time served on March 28, 2024. (*Id.* at Dkt. Nos. 13 (misdemeanor information), 14 (plea agreement), and 17 (judgment)). In short, Mr. Monsanto-Germosen was in custody on this underlying federal case from at least his initial appearance on January 12, 2024, until his sentencing on March 28, 2024—a period of 77 days. Under 18 U.S.C. § 3624(e), this period is tolled from his supervised release term in this case and will extend that term by 77 days.

At today's conference, the Government suggested that Mr. Monsanto-Germosen's supervised release term might also be tolled during his time in ICE custody, which began in or about July of last year. Upon further research and conferring with the Probation Department, the Government has confirmed that supervised release would *not* be tolled due to Mr. Monsanto-Germosen being in ICE custody. *See, e.g., United States v. Garcia-Rodriguez*, 640 F.3d 129, 133 (5th Cir. 2011) (noting that release from BOP custody to ICE custody did not trigger tolling under Section 3524(e), which does not refer to "administrative detention or other specific types of

custody,” and that as a practical matter, any supervision during a period of ICE custody would “simply have been ‘inactive’ supervision”).

Respectfully submitted,

DAMIAN WILLIAMS
United States Attorney

By: /s/ Jessica Greenwood
Jessica Greenwood
Assistant United States Attorney
(212) 637-1090

Cc: Counsel of Record (via ECF and email)

The Court thanks Government counsel for this helpful – and prompt – clarification. The Clerk of Court is requested to terminate the motion at Dkt. No. 215.

5/15/2024

SO ORDERED.

Paul A. Engelmayer
PAUL A. ENGELMAYER
United States District Judge